

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

**DHSC, LLC, d/b/a AFFINITY MEDICAL CENTER,
COMMUNITY HEALTH SYSTEMS, INC., and/or
COMMUNITY HEALTH SYSTEMS PROFESSIONAL
SERVICES CORPORATION, LLC,
a single employer and/or joint employers, et. al.,**

and

Cases 08-CA-117890, et al.

**CALIFORNIA NURSES ASSOCIATION/NATIONAL
NURSES ORGANIZING COMMITTEE (CNA/NNOC)**

**GENERAL COUNSEL’S MOTION TO WITHDRAW AND AMEND
CERTAIN COMPLAINT PARAGRAPHS FROM SECOND AMENDED
CONSOLIDATED COMPLAINT**

Counsel for the General Counsel (General Counsel) moves to withdraw and amend certain complaint paragraphs from the Second Amended Consolidated Complaint as set forth below:

1. Withdraw Paragraph 36(C), “Personal Web Sites and Blogs,” in its entirety.¹
2. Withdraw Paragraph 36(D), “Conduct That May Result in Disciplinary Action,” in its entirety.²
3. Withdraw Paragraph 40(D), “Conduct That May Result in Disciplinary Action,” [Barstow], in its entirety.
4. Withdraw Paragraph 41(B), “Electronic Media, Records, and Documents” [Barstow], in its entirety.

¹ The portion of this allegation that pertains to Affinity and Fallbrook has already been resolved by consent order. (36(C)(1),(3)).

² The portion of this allegation that pertains to Affinity and Fallbrook has already been resolved by consent order. (36(D)(1),(3)).

5. Amend Paragraph 36(B), “E-mail, Internet & Electronic Access,” to now allege as follows:

The following rule has been maintained and is contained in Employee Handbooks, under the heading “E-mail, Internet & Electronic Systems Access”:

E-mail and Internet resources are shared by all CHSI affiliated entities, and shall be used only by authorized users in the performance of their assigned job duties. Responsible, incidental personal use is acceptable provided (1) it does not interfere with the performance of your job duties or another employee’s job duties, (2) the resources are not used in a manner that limits or impedes their use or access for legitimate business purposes, or (3) it does not violate this or any other facility policy. [...]

Without prior written permission from the Facility CEO the facility’s electronic systems, including e-mail and Internet , may not be used for the dissemination or storage of commercial or personal advertisements, solicitations, promotions, destructive programs (i.e., viruses or self-replicating code), political material, or any other unauthorized use.³

- (1) By Respondent Affinity since on or about June 4, 2014. [resolved by consent order]
- (2) By Respondent Barstow since on or about June 6, 2014.
- (3) By Respondent Fallbrook since on or about June 4, 2014. [resolved by consent order].
- (4) By Respondent Greenbrier since on or about June 9, 2014.
- (5) By Respondent Watsonville since on or about June 5, 2014

6. Amend Paragraph 40(B), “E-mail, Internet and Electronic Access,” [Barstow] to now allege as follows:

(B) The “E-mail, Internet & Electronic System Access” rule that provides, in relevant part:
E-mail and Internet resources shared by all CHS facilities, and shall be used only by authorized users in the performance of their assigned job duties. Responsible, incidental personal use is

³ Please note that the following language is being withdrawn:

Material that is ...embarrassing ... intimidating, defamatory or ... inappropriate may not be sent by the facility’s computer system, including email, or accessed by the facility’s computer system, including any internet connection provide by the facility, or displayed on or stored in facility computers. Users encountering or receiving this kind of material should immediately report the incident to their supervisor.

Please note that similar language is being withdrawn from the following rules, as well: 40(B), 42(B), 48(B), and 51(B).

acceptable [...]. Without prior written permission from CHS Chief Information Officer, the facility's computer system, including the e-mail and Internet facilities, may not be used for the dissemination or storage of commercial or personal advertisements, solicitations, promotions, destructive programs (i.e. viruses or self-replicating code), political material, or any other unauthorized use.

7. Amend Paragraph 42(B), "E-mail, Internet and Electronic Systems Access," [Bluefield] to now allege as follows:

(B) At all material times, Respondent Bluefield maintained in its Employee Handbook, under the heading "Email, Internet and Electronic Systems Access," the following rule, in relevant part:

Without prior written permission from the CHSPSC Chief Information Officer, the facility's computer system, including the email and internet facilities, may not be used for the dissemination or storage of commercial or personal advertisements, solicitations, promotions, destructive purposes (i.e. viruses or self-replicating code), political material, or any other unauthorized use.

8. Amend Paragraph 48(B), "E-mail, Internet and Electronic Systems Access," [Greenbrier] to now allege as follows:

(B) At all material times until about June 9, 2014, Respondent Greenbrier maintained in its Employee Handbook, under the heading "Email, Internet, and Electronic System Access," the following rule, in relevant part:

Without prior written permission from the Facility CEO, electronic systems, including e-mail and the Internet, may not be used for the dissemination or storage of ... solicitations ... political material [...].

9. Amend Paragraph 51(B), “E-mail, Internet & Electronic Systems Access” [Watsonville] to now allege as follows:

E-mail and Internet are shared resources and shall be used only by authorized users in the performance of their assigned job duties. Responsible, incidental personal use is acceptable provided (1) it does not interfere with the performance of your job duties or another employee’s job duties, (2) the resources are not used in a manner that limits or impedes their use or access for legitimate business purposes, or (3) it does not violate this or any other facility policy. [...]

Without prior written permission from the Corporate Chief Information Officer, the facility's computer system, including the e-mail and Internet facilities, may not be used for the dissemination or storage of ... solicitations ... political material [...].

10. Amend Paragraph 42(G), to now allege as follows:

42(G) (1) At all material times, Respondent Bluefield has maintained on its intranet under the heading “Harassing and Intimidating or Disruptive Behavior” the following rule, in relevant part:

Disruptive and/or Intimidating Behavior: This behavior may include: ...
Outbursts of anger...Inappropriate responses, language or behaviors; Rudeness;
.... Exhibiting uncooperative behaviors

(2) About November 9, 2012, Respondent, by Human Resources Manager Laura Martin, enforced the rule described above in paragraph 42(G)(1) selectively and disparately by applying it to its employee for having engaged in union and/or concerted activities, and to discourage employees from engaging in those activities.

11. Amend Paragraph 91(G) to now allege as follows:

(G) Since about June 23, 2014, Respondent has failed and refused to furnish the NNOC with the following information requested by it as described above in paragraph 91(B)⁴:

(1) The information requested in Exhibit C, paragraphs 1, 4, 5, 6, 7, 10, 12, 13, 15, 18, 19, 22, 26, 32, 35 and 36;

(2) The specific nursing departments that decided the training needs were either greater than or less than the two training days recommended by CERNER as requested in Exhibit C, paragraph 21.

DATED at Cleveland, Ohio this 5th day of October 2018.

Respectfully submitted,

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⁴ General Counsel submits this is to correct a ministerial error, which previously referenced Paragraph 90(B), instead of 91(B). The Complaint, Paragraph 91(B) alleges: “Since about June 23, 2014, NNOC requested, in writing, that Respondent Affinity furnish it with the information as set forth in Exhibit C.”

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing, was filed electronically with the National Labor Relations Board, Division of Judges, and served by electronic mail, as designated below, on the 5th day of October, 2018 on the following parties:

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DATED at Cleveland, Ohio this 5th day of October, 2018

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